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Sent: Wednesday, June 28, 2017 1:24 PM
To: prd_docketing@prd.uscourts.gov
Subject: Activity in Case 3:16-cv-02516-GAG Cosme-Calderon v. Cuerpo de Emergencias Medicas del E.L.A. de Puerto Rico et al Order on Motion to Dismiss for Failure to State a Claim

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United States District Court

District of Puerto Rico

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Case Name: Cosme-Calderon v. Cuerpo de Emergencias Medicas del E.L.A. de Puerto Rico et al

Case Number: 3:16-cv-02516-GAG

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Docket Text:

ORDER: Defendants motion to dismiss the complaint for failure to state a claim (Docket No. 8) is DENIED. Defendants raise two arguments for dismissal: (1) Plaintiffs complaint does not plead the required elements of the ADA, so the retaliation and hostile work environment claims must be dismissed; and (2) any claim for damages against the Commonwealth is barred by Eleventh Amendment sovereign immunity. Id. The first argument fails because Plaintiffs complaint states a plausible claim for relief under the ADA. Roman-Oliveras v. P.R. Elec. Power Auth., 655 F.3d 43, 48-49 (1st Cir. 2011). Second, Defendants remedies argument is inappropriate at this early stage. See Espinal-Dominguez v. Commonwealth of P.R., 352 F.3d 490, 497-99 (collateral order doctrine bars appellate review of a denial of a motion to dismiss on the grounds of Eleventh Amendment immunity). Aside from monetary relief, Plaintiff seeks injunctive, declaratory, and equitable relief, for which sovereign immunity provides no shield. Once the facts are gathered, the strength of Plaintiff's case may be tested at summary judgment. Signed by Judge Gustavo A. Gelpi on 6/28/2017. (GC)

3:16-cv-02516-GAG Notice has been electronically mailed to:

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